HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.26780 of 1998

Dated 27th day of June, 2007

Between:

Smt. Uppalapati Umadevi
and three others ..
Petitioners

And

The Joint Collector, Khammam
and two others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the order dated 31.7.1998 passed by the 1st respondent-Joint Collector, as arbitrary and illegal.

The petitioners assert that they are the absolute owners of various extents of lands in S.Nos.126/139, 126/102 and 126/130 situated in Pandurangapuram village, Paloncha Mandal, Khammam District. The 3rd respondent-Mandal Revenue Officer, after conducting regular enquiry granted certificates in Form No.13(B) validating the unregistered sale deeds executed by the original owners under Section 5(A) of A.P. Rights in Land and Pattadar Pass books Act, 1971. The petitioners paid necessary fees to the Government and got pattadar passbooks on 14.3.1997. Now, the grievance nurtured by them is that based on the *suo motu* revision preferred by the 2nd respondent-Revenue Divisional Officer, the 1st respondent-Joint Collector, issued the impugned order dated 31.7.1998 cancelling their pattadar passbooks and directed the Special Deputy Collector to examine their case under the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1959 as amended by Regulation 1 of 1970 (for short "A.P.S.A.L.T. Regulation").

The respondents have filed counter affidavit *inter alia* denying the affidavit averments and stated that with reference to the revenue records, the pattas for certain extents of lands in S.Nos.126/139, 126/102 and 126/130 stand in the names of Pittala Laxmaiah and Chandrakani Veeraiah, who are not the writ petitioners. It is further stated that the petitioners, with a *mala fide* intention to grab the lands

in question, created fabricated unregistered sale deeds. Further, the 3rd respondent granted pattadar passbooks in favour of the petitioners without verifying the old records.

Having heard the learned counsel for both the parties, this Court is of the view that the 3rd respondent, before issuing certificates under Section 5(A) of A.P. Rights in Land and Pattadar Passbooks Act, 1971, did not refer the matter to the Special Deputy Collector to ascertain as to whether the lands in question, at any point of time, were held by the tribals as those lands are located in agency tract. When the 2nd respondent, *suo motu,* preferred a revision, the 1st respondent-Joint Collector passed the impugned order cancelling the certificates and referred the matter to the Special Deputy Collector to examine the petitioners' case under the provisions of A.P.S.A.L.T. Regulation. In my considered view, the order dated 31.7.1998 of the 1st respondent is perfectly justified and if, ultimately, after the enquiry by the Special Deputy Collector, it is held that the transfer of lands is not hit by any of the provisions under A.P.S.A.L.T. Regulation, then definitely, it can be said that the petitioners are entitled to certificates as contemplated under Section 5(A) of A.P. Rights in Land and Pattadar Passbooks Act, 1971. Hence, the order impugned cannot be said to be bad in law.

Having regard to the facts and circumstances of the case, this Court deems it appropriate to direct the Special Deputy Collector to examine the petitioners' case under the provisions of A.P.S.A.L.T. Regulation and during the course of examination, if it comes to light that the transaction made by the petitioners is not hit by any of the provisions of A.P.S.A.L.T. Regulation, then they can again apply to the Mandal Revenue Officer for issuance of certificates. It is needless to observe that the Special Deputy Collector, before conducting the enquiry, shall afford an opportunity to the petitioners to adduce both

oral and documentary evidence. As this Court, while ordering Rule Nisi, granted interim stay, the same shall continue pending enquiry.

With the above direction, the writ petition is disposed of. No costs.

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27.06.2007

bcj